

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 87 OF 2023

1. Gopinath S. Waghmare
2. Swapnil G. Waghmare
3. Anita G. Waghmare
4. Akash G. Waghmare
5. Vasant P. Waghmare ...Applicants
V/s.
State of Maharashtra ...Respondent.

Mr. Tushar Sonawane for the Applicant.
Mrs. Rutuja Ambekar, APP for the Respondent/State.

CORAM : N.R. BORKAR, J.
DATE : 01.02.2023.

P.C. :

1. This is an application under Section 438 of Code of Criminal Procedure for anticipatory bail.
2. The applicants are apprehending their arrest in Crime No.165 of 2022 registered at Ozar Police Station, Dist Nashik for the offences punishable under Sections 307, 324, 323, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code and Section 37 (1) & (3) read with 135 of the Bombay Police Act.
3. The learned counsel for the applicant, on instructions, seeks leave to withdraw the present application qua applicant No.4- Akash Waghmare. The Application is dismissed, as withdrawn, qua the applicant No.1.

4. I have heard the learned counsel appearing for the applicant and the learned APP for the respondent / State and perused the first information report.

5. According to the prosecution, on the day of incident which took place on 4 November 2022, at about 10.30 p.m. dispute arose between the complainant and applicant No.1 on account of some trivial issue. It is alleged that after 10 to 15 minutes thereafter the present applicants with other co-accused came to the house of the complainant and at that time applicants and other co-accused were armed with chopper, iron rod and sticks. It is alleged that present applicants and co-accused assaulted the complainant by chopper, iron rod and stick and attempted to commit his murder.

6. The learned counsel for the applicant submits that the applicant No.1 is serving as a Driver with MSRTC. It is submitted that there is a cross FIR lodged by the applicant No.3 as the complainant and his friends came to the house of the applicants and assaulted the applicant No.2. It is submitted that the entire family of applicants is roped in.

7. On the other hand, the learned APP submits that the applicants are involved in serious offence of attempt to commit murder. It is submitted that custodial interrogation of applicants is necessary for recovering the weapons. It is submitted that considering the nature of offence, the applicants may not be released on anticipatory bail.

8. I have perused the injury certificate of the complainant. The complainant had sustained grievous injuries in the alleged incident.

9. According to the complainant, the applicant No.1 assaulted him by iron rod and accused Nos.3 and 5 assaulted him by sticks. As regards applicant No.2, according to the complainant, he assaulted to his friend Vishal Nikam. I have perused his injury certificate. Injury sustained by him appears to be simple in nature.

10. It appears that applicant No.1 on the day of incident after the alleged dispute which took place at 10.30 p.m., he went to the house of the complainant with other co-accused and assaulted him by iron rod. I am, therefore, not inclined to release the applicant No.1 on anticipatory bail. Considering the facts and circumstances of the case and as there is a cross FIR, I am inclined to release the applicant Nos.2, 3 and 5 on anticipatory bail. In the result the following order is passed.

ORDER

A) Anticipatory Bail Application *qua* the applicant No.1 is rejected.

B] Anticipatory Bail Application *qua* the applicant No.4 is disposed of as withdrawn.

C) In the event of arrest of the applicant Nos.2, 3 and 5 in C.R. No. 165 of 2022 registered at Ozar Police Station, Dist Nashik for the offences punishable under Sections 307, 324,

323, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code and Section 37 (1) & (3) read with 135 of the Bombay Police Act, they be released on bail on executing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) each with one or two sureties in the like amount.

D] Anticipatory Bail Application is disposed of accordingly.

11. The learned counsel for the applicants submits that the interim protection granted by this Court on 12 January 2023 be continued for a period of four weeks to enable applicant No.1 to approach the Hon'ble Supreme Court. Considering the facts and circumstances, the interim order dated 12 January 2023 shall remain in force for a period of four weeks from today.

[N.R.BORKAR, J.]